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Commission Conclusion

The Commission agrees with AT&T that flat rate services should properly be included the resale of services. There is simply no authority for this Commission to do otherwise.

With respect to the issue of network build-out, the Commission agrees with Ameritech and Staff that LECs should be able to recover any additional costs, such as special construction costs, through appropriate charges to the reseller. For example, early termination charges may be an appropriate method to ensure adequate cost recovery, given the circumstances of a particular request for network build-out and the duration of the service being requested by the reseller.

F. Stripping of Operator Services and Directory Assistance from Resold Services

AT&T

AT&T also has proposed that the LECs unbundle Operator Services and Directory Assistance ("OS/DA") from the basic local service package. AT&T contends that resellers should have the option of providing these transaction-based services themselves, through a third party, or via resale of the incumbent LEC's services. Accordingly, AT&T states that this option would create an opportunity for competitive differentiation in local service. AT&T argues, therefore, that these local services should be unbundled from basic local service by the incumbent as a stand-alone part of its wholesale offer.

AT&T takes exception to Ameritech's contention that "AT&T's proposal in this proceeding would allow it to capture the remaining operator service calls (i.e., Bands A and B calls) and directory assistance calls -- calls that would not be routed to them as a facilities-based usage provider on a 1+, 0+, or 411 basis." AT&T maintains, that the premise of this argument is that because these remaining operator services supposedly produce higher than average levels of contribution, AT&T would be able to take these allegedly high margin services and leave Ameritech with the remaining services. AT&T states that the federal Act renders Ameritech's argument moot.

AT&T argues that the federal Act now requires incumbent LECs to make these services available on an unbundled basis without regard to the amount of contribution they provide. More importantly, Ameritech states that a true cost-based pricing plan, as mandated by

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the federal Act, would make Ameritech's concerns about maintaining, appropriate contribution levels irrelevant. Consequently, AT&T contends that the total wholesale service is justified under Section 13-505.5 as well as under the federal Act.

Ameritech

Ameritech stated that it will provide directory assistance and operator services to resellers at wholesale rates. The Company did not agree with AT&T's proposal that Ameritech also be required to allow resellers, at their option, to "strip" all operator and directory assistance calls from the bundled resold service so that the reseller or a third party can provide the operator and directory assistance services directly through their own facilities.

Ameritech argued that there are several reasons for rejecting AT&T's proposal. First, the Company maintained that it is a thinly veiled plan to revisit the Commission's order in the Customers First case. In that proceeding, the Commission addressed dialing parity and developed presubscription rules. Presubscription was limited to Band C and toll usage and Band C and toll operator services traffic and did not include directory assistance. Ameritech argued that if AT&T's proposal were adopted, it would significantly change the Customers First Order and would conflict with earlier Commission policy decisions.

Ameritech also contended that it would be inappropriate to grant AT&T's request from a competitive perspective. By offering reseller services, AT&T would be in a position to offer direct dialing on Bands A and B operator services and directory assistance traffic; a purely facilities based carrier would not. Thus, AT&T's proposal, according to Ameritech, would favor "one-stop shopping" IXC's over competitors which provide only toll services or purely "switchless" resellers. Ameritech suggested that changes, if any, in the scope of presubscription should be addressed in a generic proceeding where the interests of all carriers could be addressed.

Ameritech also argued that AT&T's proposal is not technically feasible. Current switches can route presubscribed calls to another provider's directory and operator assistance services. However, the current switches do not permit the routing of local calls to different service providers based on who is purchasing the bundled service. AT&T argued that these calls could be routed using routing guides which it claimed are included within the software of the AT&T SESS switch. Ameritech responded that using routing guide techniques would require the assignment of numerous new line class

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codes. According to Ameritech, there would not be enough line class codes available to support such an offering. AT&T argued that Ameritech witness Mr. Kocher was unable to confirm or deny whether the AT&T SESS switch had the ability to accommodate AT&T's request for special routing of operator services and directory assistance. Ameritech responded that was not Mr. Kocher's testimony.

Ameritech also discussed why Staff's suggestion to utilize AIN technology was not feasible. Today, neither local operator calls nor directory assistance calls are routed using AIN technology. The Company stated that it is not clear whether AIN technology could be utilized; to do so would require significant additional developments using the AIN platform's service creation capabilities in order to create new databases to develop the routing algorithms necessary to provide this functionality. In addition, Ameritech suggested that it would be necessary to obtain more information from reseller customers prior to any such development of the AIN technology so that the routing capability being requested could be defined and it could be determined how such capability would interact with the other options associated with the end user's line. Ameritech also mentioned that it was unclear whether there would be an effect on signaling capability, call handling capacity or call set up times. The Company estimated the costs associated with any such development would likely be "substantial."

Ameritech suggested that the proposal to strip OS/DA from resold services is also unreasonable from a financial perspective. The Company stated that operator services provide more contribution than exchange access lines and intraexchange calling products. Ameritech argued that if resellers are permitted to strip the high margin services from the bundled wholesale offering and Ameritech is left with low margin services, ultimately the resulting wholesale rate structure would not be self-sustaining. The Company stated that resellers should not be permitted to cream skim both by customer (i.e. by competing for more profitable customers) and by product (i.e. by leaving those less profitable customers with Ameritech at a resale basis but then stripping the higher margin services for the bundled wholesale offering).

AT&T contended that all of the Company's policy arguments against requiring stripping of OS/DA from resold services have been superseded by the federal Act. Ameritech responded that is not the case and that the federal Act does not require the stripping of operator services and directory assistance calls.

Staff

Staff takes the position with respect to AT&T's request for the separate provisioning of operator services and directory assistance that the Commission should require Ameritech and Centel to provide these services on an unbundled basis to foster competition and innovation where economically and technically feasible.

Staff disagrees with Ameritech's statement that AT&T's request is nothing more than an attempt to revisit presubscription issues in the Customers First Order. Staff states that the Commission never addressed OS/DA presubscription of in that docket. Staff concludes, moreover, that requiring Ameritech and Centel to provide OS/DA on a presubscribed basis will further the Commission's policy of allowing competition in the local exchange market where economically efficient. Staff states that Ameritech simply is attempting to prevent competition in OS/DA provisioning. Staff maintains that Ameritech's claim that it will be left with only selling services that have low margins is misplaced. As services become sufficiently competitive to warrant a competitive classification by the incumbent LEC, it will have the opportunity to either increase or decrease the profit margin on such services.

Commission Conclusion

Unbundling of OS/DA is a necessary requirement for effective competition. Ameritech's objections to AT&T's request in this regard are not adequately supported by the record. Ameritech argues that unbundling of OS/DA is not technically feasible, but has failed to provide persuasive evidence in support of that claim. Moreover, AT&T has presented what it deems a workable solution, i.e., the use of "line class codes" to route OS/DA calls, in opposition to Ameritech's claim that the separate routing of these calls is not possible at this time. Given the importance of this issue and the potential that competition will be the likely result of unbundling OS/DA from the wholesale offering, the Commission orders Ameritech and Centel to unbundle its OS/DA calls from its total service resale offering pursuant to Section 251 (c)(3).

G. Direct Access to Ameritech's Advanced
Intelligent Network

AT&T

AT&T has requested access to the LECs' AIN triggers so that non-facilities-based resellers can provide facilities-based

innovations to the market. These services would include, among other things, messaging, emergency and security services and telecommunications services. AIN consists of three basic elements: Signal Control Points, Signal Switching Points, and Signal Transfer Points. The services that could be provided by a reseller typically would be housed in the Signal Control Points and could provide numerous services and processing.

AT&T contends that access to the switch triggers is appropriate in these proceedings, as they would provide innovations to the existing local network. AT&T concluded that competitive AIN offerings were in the public interest and that competitors should be allowed to make product development and marketing decisions based on competitive opportunity. AT&T dismissed the design and capacity problems Ameritech raised by stating that the capacity problems actually should be alleviated with the introduction of competitive databases. The AIN database inquiries and associated processing would be distributed over two or more competing platforms. AT&T indicated that Ameritech's proposal to develop services for resellers using its AIN platform was an unacceptable and anti-competitive option. Although other resellers may find this approach acceptable, AT&T felt that the service creation environment may be limited by the capabilities of the LEC's platform. Also, proprietary data would be stored in the LEC's network, hampering the reseller's ability to control access and to prevent compromise. Further, AT&T pointed out that Ameritech is currently concerned with its capacity for its own AIN platform.

AT&T maintains that new innovations through the use of the AIN should be encouraged on both a facilities-based as well as on a resold basis. AT&T's states that its request is consistent with a request for a network element under the new federal Act. Safeguards, however, are necessary to assure the integrity of the network. As Ameritech and Centel deploy AIN systems, they should be ordered to install them in a way that provides the necessary safeguards without erecting unnecessary barriers which would undermine AT&T's request.

Ameritech

Ameritech took the position that resellers should not be permitted direct access to its Advanced Intelligent Network ("AIN"). The Company contends that the proposed requirement to require it to provide resellers with direct access to AIN is not a resale/wholesale tariff issue, but rather should be considered, if at all, as a network interconnection issue. Ameritech's position was that the issue is not appropriately addressed in this

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proceeding. Ameritech further asserted that even if it were appropriate to address in this proceeding, AT&T's proposal would raise serious policy issues. While Ameritech is willing to develop services for resellers using its AIN platform (assuming that resellers pay for the cost of development), to require access to AIN would provide resellers with almost unlimited ability to pick and choose the services they will provide using unbundled network elements. Ameritech observed that this could create an adverse effect in the market place.

Ameritech also pointed out that if the Commission entered such an order in this proceeding, it would be permitting access to AIN without any further regulatory involvement by the Commission. The Company's position was that such important policy matters should not be permitted to be determined unilaterally by the resellers. Ameritech maintained that there are already design and capacity problems with the AIN platform, and that permitting such unrestricted access on the part of resellers would only exacerbate those problems. It could also create unresolvable conflicts among carriers seeking access to the AIN platform. Ameritech noted that Staff has also expressed concern over AT&T's request for access to AIN inside Ameritech switches because of the risk of network failure.

Staff

Staff is concerned that direct access to the LEC database and switches for manipulation by the resellers may contain a high level of risk to the network through either ignorance or sabotage. Staff states, however, that this potential for network harm is reduced if safeguards are provided at the appropriate points so that the network would not be jeopardized. Staff concluded, that with the safeguards in place the provisioning of facilities-based innovations by resellers should be encouraged.

Conclusion

AT&T's request for access to Ameritech's AIN triggers should be granted. AT&T's request is consistent with a request for a network element under the federal Act. In addition, it is without question that access to Ameritech's AIN triggers will promote innovation in the provision of services. Clearly, such access is in the public interest.

Ameritech's argument that this is the wrong forum to make such a determination is not persuasive. The Company, however, has not provided any analysis as to why this matter in principle cannot be

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considered as a part of this docket in view of the Commission's immediate goal of promoting competition. Access to AIN triggers is within the Commission's authority to consider under Section 13-505.5's public interest concerns.

AT&T did not object to exploring the specifics of AIN triggers in another docket, but recommended that the Commission move forward with ordering that Ameritech provide access to its AIN triggers. Access to these AIN triggers will promote innovations with respect to service offerings. The Commission agrees with Staff that if there are any risks to the network present, they are identifiable and can be resolved without harm to Ameritech's network.

The Commission will require Ameritech to provide access to its AIN triggers. The Commission requests that the Company address the possible risks to the network and incorporate the appropriate remedies to prevent any harm. If Ameritech is not able to comply with this requirement, it must submit a full explanation and showing in support thereof with its compliance tariffs filed in response to the Commission's order in this proceeding, along with specific plans and a timetable for achieving compliance.

**VI. OPERATIONAL ASPECTS OF AMERITECH'S
WHOLESALE TARIFF OFFERING**

A. Operational Interfaces

AT&T

AT&T's petition requests that Ameritech and Centel be required, as a part of their total service resale offering, to provide to new entrants operational interfaces for local exchange services at parity with the performance and quality of the interfaces that the incumbent LEC provides to itself (including affiliates) and its retail customers. AT&T contends that effective competition in the local exchange mandates parity in service offerings; without it, according to AT&T, the total service resale offering will be meaningless. Such parity requires that the incumbent LEC make available: (1) access to on-line electronic support systems; (2) data interfacing; (3) reseller branding; and (4) access to necessary LEC-controlled databases.

AT&T's petition declares that every difference which makes a reseller's sales and other customer contacts more complex than the incumbent LECs' insidiously undermines the competitive process. Accordingly, it requests that the Commission ensure that any such differences are eliminated. For example, if the incumbent LECs were

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to accept only a written letter of authorization before a customer could select a new service provider, the incumbent LEC would be placed at a significant advantage. Accordingly, FCC guidelines for carrier changes by customers should be extended to the local market as it moves toward competition. AT&T's concern for service parity extends to all operational and support activities, including maintenance.

In order to ascertain whether the incumbent LECs are meeting the parity standards, AT&T argues that it is essential that measurements be established to assess the quality of performance at all points of interface between the incumbent LEC and the reseller. AT&T used the example of service ordering and the installation/repair processes. According to AT&T, measures of speed and accuracy must be established. With respect to billing processes, it is necessary to monitor accuracy and timeliness. It is AT&T's position that at all points where a reseller and an incumbent LEC interface in the provision of local services to customers, appropriate measures of the quality of that interface must be created. Finally, it contends that incumbent LECs should maintain the responsibility for providing wholesale services which comply with the service performance standards set forth in 83 Ill. Adm. Code Parts 306, 730 and 783.

In response to Staff witness Gasparin's proposal that the reseller file a formal complaint with the Commission if it believes it has been harmed or discriminated against, AT&T stated that although Staff's proposal would at least provide a procedural avenue for addressing LEC service provisioning deficiencies, this Commission should not rely exclusively on the complaint process as a remedy to a LEC's non-compliance in this context. Again, the underlying standard which the LECs should be required to meet is parity with the service interfaces provided to themselves and their customers.

AT&T recommends that to compensate for inferior operational interfaces, if the LEC should provide any, the Commission should order a transitional incentive discount. It maintains that, if and to the extent these on-line electronic support systems are not yet made available to new entrants, or are not provisioned at parity with the incumbent LECs' own systems, an incentive discount of up to 10% should be applied to the wholesale price in recognition of any difference between the retail and wholesale versions of the service. AT&T maintains that its proposed incentive discount of up to 10% will ensure that equal access to operational interfaces is made available at the earliest practical time. Under its proposal, as each of the five on-line electronic support system interfaces is

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brought into parity with the LEC's own retail operations an additional 2% will be subtracted from the transitional discount.

Ameritech

Ameritech stated that, as part of its wholesale tariff offering, it has created operational interfaces that will allow resellers to order services for resale to its end users efficiently and ensure that they are properly maintained and repaired. It also has taken steps to protect the proprietary information of resellers and end users. According to Ameritech, there is a wide range of procedures for ordering services that vary based on the type and quantity of information required by the reseller, the time required to install the service and the degree of coordination and/or testing required. The Company agreed to provide electronic and manual interfaces to resellers ordering resold services. Currently, these electronic interfaces enable resellers to match Ameritech's performance 85% of the time. These resale orders are expected to focus initially on the conversion of service from Ameritech to a reseller. The remaining 15% of orders are from end users for services not already provided by the Company or a provider reselling Ameritech's exchange services. According to Ameritech, interface issues relating to the remaining 15% of the orders are limited to pre-service order functions and anticipated to be resolved before the end of the year.

Ameritech did not agree, as maintained by Staff and others, that the operational interfaces are required to be provided by the Company and other LECs as "network elements."

Ameritech stated that it also will ensure that the performance and quality of services that the resellers receive is equal to the services that it provides to Ameritech Communications, Inc. and that there will be no differences between the services it provides to its own end users or to resellers' end users based on the operational interfaces it provides to resellers that will have competitive implications in the marketplace. Ameritech's position is that there is little real controversy remaining over most of the operational issues.

Ameritech submitted that the Commission take no action with respect to the operational interfaces. The Company indicated that it continues to improve the various systems that it has in place as has been demonstrated by the electronic bonding project and repair systems. It also continues to work on system designs to make it easier for resellers to order and implement services. Ameritech's position is that if Commission involvement is required at all, that

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should be only if situations arise where the parties cannot reach an agreement regarding operational matters.

Ameritech also argued that AT&T's recommendation that the Commission establish measurements to assess the quality of performance at every interface should be rejected. According to the Company, AT&T has failed to submit sufficient evidence in the record that would enable the Commission to adopt measurements. Moreover, Ameritech believes that these issues are effectively being worked out between it and the resellers and should continue to be addressed that way unless or until an impasse occurs.

Staff

Staff agrees with AT&T that Ameritech and Centel should be required as a part of their total service resale offering to provide the operational interfaces, enumerated in the testimony of AT&T witness Fonteix, at parity with the operational interfaces Ameritech and Centel supply to themselves and their affiliates. Staff concludes that the provision of these operational interfaces is necessary in order to promote competition. Specifically, Staff agreed that effective resale competition cannot exist unless a reseller can provide the same service, including the same quality, as the wholesale LEC does when it retails the service to end users.

Staff opposes AT&T's request for an additional discount to be applied to the wholesale discount as a penalty for inferior service. Staff believes that these discounts are not appropriate and suggests that there already exist minimum service quality standards that wholesale LECs must meet for their resale customers, citing to 83 Ill. Adm. Code 730. Mr. Gasparin proposed that the reseller file a formal complaint with the Commission if it believes it has been harmed or discriminated against.

Commission Conclusion

The importance of equal operational interfaces is essential to the development of resale competition. In order to ensure that the needs of new entrants are satisfied, the Commission will order that all incumbent LECs are required to provide to resellers, as an integral part of their resale service offering, all operational interfaces at parity with those provided their own retail customers, whether directly or through an affiliate. That is the overriding standard to which incumbent LECs will be held in the provision of wholesale services.

Further, Ameritech and Centel will be required to file, with their implementing tariffs, a report demonstrating their compliance with this standard. To the extent the LECs contend they are unable fully and immediately to implement operational parity, they should be required to submit a plan, including specific timetables, for achieving compliance.

B. Branding Operator Services and Directory Assistance

AT&T

AT&T argues that parity with the incumbent LEC requires proper branding of the incumbent LEC's service. AT&T proposes that Ameritech and Centel be required to brand all telecommunications services provided by a reseller in that reseller's name. Branding in this context means all telecommunications services offered by a reseller should be branded as if they were the services of the reseller. AT&T needs to be able to brand its resold services for the purpose of informing AT&T's customers that it is their local service provider.

Staff

Staff supports AT&T's branding proposal. Staff that the potential exists for the wholesale LEC to use its monopoly power in the provisioning of incumbent local exchange service anti-competitively. For example, Staff contends that the wholesale LEC could advertise its own services by branding directory assistance, operator services, etc., on calls provided to end users by resellers. Staff does state, however, that while branding is desirable, there may be technical reasons why branding for resellers cannot be provided.

Ameritech

Ameritech urged the Commission to reject AT&T's proposal that the Company be required to "brand" resold operator services and directory assistance provided to resellers. It stated that it will brand operator services calls where it is technically feasible and cost-effective to do so. Ameritech indicated that, today, it provides branded OS/DA services to independent telephone companies. However, the service configurations would be entirely different in a resale environment and branding normally would not be technically feasible. In the independent telephone company arrangements, calls are handled by the contracting carrier's switch and then routed on an aggregated basis to Ameritech's operators via dedicated trunk

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groups. This permits the operator to identify the call as originating from a separate company and answer it appropriately. By contrast, in a resale environment, there are no dedicated trunk groups. The OS/DA calls would be routed on the same lines and commingled with Ameritech's OS/DA calls and those of all other resellers. Therefore, as a practical matter, according to Ameritech, there is no way to brand resellers' calls.

The Company also emphasized that AT&T was requesting that a unique branding obligation be imposed on the incumbent LEC. According to Dr. Harris and Mr. Heckendorn, two of Ameritech's witnesses, AT&T is not required to rebrand the long distance services it provides to resellers of interexchange services. Mr. Heckendorn testified that resellers of these services must make substantial additional investments in order to make the resold services work in a manner that meets their business needs.

Ameritech indicated its willingness to brand calls where they can be carried on a separate trunk group. If a reseller established a 7-digit number for directory assistance (e.g., 555-xxxx), those calls could be separately identified and branded. The Company stated that it also would continue to work with the industry to explore whether cost-effective solutions can be developed.

Conclusion

To the extent that it is technically feasible, the Commission accepts AT&T's and Staff's proposals that resold OS/DA be branded because Ameritech has agreed to provide branding of OS/DA where it is technically feasible.

AT&T's recommendation that Ameritech and Centel be required to brand their resold services with the name of the resellers also will be approved. The purpose for such a requirement is to inform the reseller's customers that AT&T is their local service provider. Ameritech conceded that branding was appropriate where it was technically and economically feasible.

As to Ameritech technical arguments, the same solution that would resolve any supposed technical difficulties in offering unbundled OS/DA should be employed with respect to branding. Given the importance of this issue, the Commission will require Ameritech and Centel to provide branding of their resold services. If, and to the extent, that Ameritech and Centel maintain that it is not possible on technical grounds immediately to comply with this requirement, they must submit a full explanation and showing in

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support thereof with their compliance tariffs filed in response to the Commission's Order in this proceeding, along with specific plans and a timetable for achieving compliance.

C. Routing of 611 Calls

AT&T stated that the reseller should define and manage the process by which network troubles are reported by end users, initial remote trouble shooting is performed, and subsequent repair and maintenance visits are scheduled and confirmed with the end user. Although the repairs would be completed by the LEC, 611 trouble calls are to be routed to the repair bureau of the reseller serving that particular line according to AT&T. This bureau would have access the LECs to maintenance support systems of to perform initial trouble shooting immediately. AT&T concluded that the resellers would have a strong incentive to ensure that no delays in rectifying the trouble occurs.

Ameritech opposed AT&T's initial request that all 611 calls which originated from its resold lines be directly routed to AT&T's own repair bureau. The Company took the position that this cannot be done for the same reason that resold OS/DA cannot be branded. There is no practical way to sort out various carriers' 611 calls since these calls are not on dedicated trunks and would be commingled with Ameritech's 611 calls and those of all other resellers. The Company also pointed out that there are other reasons for not requiring calls to be so routed. Repair calls are often made from lines other than the phone being repaired. Thus, until the end user informs it, Ameritech would have no way of knowing whether the line being reported was a resold line.

The Company suggested that the appropriate solution is for AT&T and the other resellers to develop their own unique repair numbers which would route customers' calls directly to their repair bureaus. For end users of resellers who mistakenly dial 611, the Company stated that it is developing a "warm transfer" program whereby its service representatives will "transfer" an end user to the appropriate carrier. Ameritech accepted Staff's suggestion that it continue to expand the on-line capabilities for the use of the resale customer. Finally, it stated that it does not currently charge end users for 611 calls nor would it charge resellers' end users for the "warm transfers" to resellers' service bureaus. Therefore, Ameritech proposed that the issue of charges for 611 services or warm transfers need not be addressed until such time as a carrier seeks to introduce charges for such services.

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Ameritech stated that an Electronic Bonding System ("EBS") was in its final stages of implementation and would provide the ability for a maintenance system operated by the reseller to electronically transmit trouble reports to the LEC. This system would provide security functions and ensure that confidentiality of the end user proprietary information is maintained. The EBS would allow the resellers to initiate a trouble report, supplement a trouble report previously filed, cancel a trouble report previously filed and request status on pending trouble reports. Ameritech would have the ability to acknowledge the report and provide various information and status reports. The time expected to complete a transaction using the EBS was estimated to take between 45 seconds and two minutes.

Staff pointed out that the LECs are responsible for compliance with the various codes relating to trouble reporting and corrections. Further, access to 611 repair service should not be resold and all customers should be allowed access to repair services without encumbering a charge. Staff is concerned with AT&T's concept that the reseller should define and manage the process by which troubles are reported, initial remote trouble shooting is performed, and repairs and maintenance visits are scheduled.

Commission Conclusion

The Commission concludes that AT&T's request that all 611 calls originating from its resold lines be directly routed to AT&T's own repair bureau should be rejected. We are satisfied with the fact that Ameritech has indicated that it will implement a warm transfer program whereby its service representatives will transfer an end user to the appropriate carrier. The appropriate solution for AT&T and other resellers is to develop their own unique repair numbers to route customers' calls directly to their repair bureaus. The issue of charges for 611 services and warm transfers need not be addressed until such time as carriers seek to introduce charges for such services.

The Commission is impressed with Ameritech's EBS that will allow resellers to initiate and monitor several activities for their customers. The Commission requests that Ameritech and Centel implement this system. However, the Commission wishes to assert that the ultimate responsibility for repair and maintenance is still that of the underlying carrier. Ameritech should continue to expand the on-line capabilities for use by resale customers. However, access to 6-1-1 repair service should not be resold and should be available without charge.

VII. THE LDDS PETITION

The LDDS petition requests that the basic components of the local exchange network, i.e., the loops, the switch, and local call termination, be made available to carriers for purchase so these elements may be combined and utilized to provide local exchange, exchange access, and other telecommunications services. In contrast to the AT&T petition, which seeks the ability to purchase Ameritech's and Centel's retail services at a wholesale price for the purpose of resale, LDDS' petition requests a different option, to be able to purchase the underlying network, facilities, equipment, and related support, to enable LDDS to design and offer its own local exchange, exchange access, and other services. Similar to the AT&T request, LDDS seeks access to the use of the incumbent LEC's operational interfaces and support systems for data transfer and administrative requirements, to ensure the proper and high-quality provisioning of local service at parity with the service the incumbent LECs provide themselves.

Positions of the Parties

LDDS

LDDS filed its petition, which was consolidated with the AT&T proceedings, requesting a second new noncompetitive service from Ameritech and Centel. The petition requested a new offering which would provide "the end-to-end network configuration underlying all existing Ameritech and Centel retail services." LDDS identified the exchange network as consisting of three basic elements: the loop, the switch, and local call termination. It further identified the AT&T request as retail-oriented, where the requesting carrier would purchase the incumbent LEC-defined retail service offerings at a wholesale discount for resale to end users. Under the LDDS carrier platform, or network element, approach, the requesting carrier purchases the incumbent LEC's facility or equipment used in the provision of telecommunications services, including the features, functions, and capabilities it provides. The purchasing carrier then designs and provides its own end-user retail services, using the incumbent LEC network elements, either combined or individually, as the market and its own business judgment determines.

According to LDDS, this is a further development of the Commission's Ameritech Customers First Order, where the Commission already addressed two of these three network elements, i.e., the loop and local call termination. These two network elements would continue to be available, priced uniformly with the Commission's

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orders. LDDS ask the Commission to order Ameritech and Centel to make a third network element, i.e., the switch, available in such a manner as to enable the requesting carrier to combine all three network elements to provide end-to-end telecommunications service. Having purchased the network elements from the incumbent LEC, the purchasing carrier would be entitled to all revenues for local exchange, exchange access, and other telecommunications services utilizing those network elements.

LDDS submits that its requested service is complementary to that previously ordered by the Commission and requested by AT&T. In the Ameritech Customers First Order, by ordering unbundled loops and local call termination, the Commission sought to enable carriers which provided their own switch and transport to utilize the Ameritech network to provide local exchange competition. However, due to economic realities, this form of competition will be costly and slow to develop, possibly limited to densely-populated areas and large-volume users. The services requested by AT&T and LDDS would more readily be available to provide quicker and broader based competition to the entire territories of Ameritech and Centel, including residential and small business users.

LDDS agreed to a Staff suggestion that the switch network element be available unbundled, provided that it could also be combined with the loop and local call termination to provide end-to-end service. Through this arrangement, new competitors would have more flexibility to use a mixture of uses, either utilizing end-to-end network elements provided by the incumbent LEC, or substituting one or more network elements with the carrier's own, or that purchased from another carrier. This arrangement would afford carriers the most flexibility to make decisions based on economic efficiencies and to respond with their own designed competitive offerings according to their own best business judgment.

Requiring Ameritech and Centel to provide the network elements would satisfy the three public policy goals that Staff identified: 1) uniformly pricing the unbundled loop and local call termination, while pricing the switched network element at cost, would ensure no bias in favor of either carriers providing their own switch or those utilizing the incumbent LEC's; 2) by ensuring full cost recovery, including the cost of capital, it would allow for the continued investment in the network by the underlying LEC; and 3) pricing the switch at its economic costs, LRSIC, would ensure economic efficiency in network utilization. LDDS added a fourth policy goal. With the impending authorization of Ameritech to provide interLATA services, and the advent of one-stop shopping, Ameritech will have the opportunity to benefit from the developments in the competitive

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long distance marketplace to purchase long distance services to package with its local exchange services in seeking end users' complete telecommunications traffic. It is essential that competing long distance carriers have access to exchange network elements to develop their own exchange services for combination with existing long distance services.

LDOS further states that the federal Act's passage during the pendency of these proceedings has required the incumbent LECs to provide the services requested by both LDOS and AT&T. Section 251(c)(3) requires all incumbent LECs "to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point . . . in a manner that allows the requesting carriers to combine such elements in order to provide such telecommunications service." According to LDOS, this ends any debate as to the requirement that Ameritech and Centel must provide the unbundled network elements in a manner which can be combined to provide end-to-end service as requested in the LDOS petition.

LDOS contends that the federal Act further provides the pricing standard for the network elements as cost-based, determined without reference to rate-of-return or other rate-based proceedings, nondiscriminatory, and may include a reasonable profit. The parties concur that LRSIC is the cost-based standard. However, there is disagreement regarding what constitutes a reasonable profit, and even some confusion as to the identification of what different inputs represent. It suggests that the LRSIC studies and cost data should clarify some of these issues.

Therefore, LDOS recommends that Ameritech and Centel be ordered to provide tariffs for the switching network element which may be combined with the unbundled loop and local call termination. They should be required to provide the same operational and administrative interfaces requested. These incumbent LECs should further be ordered to provide with the proposed tariffs the following data and information: 1) LRSIC studies for the switch network element; 2) a) any proposed allocation of alleged group LRSIC shared/joint costs to the switch; b) the methodology and claimed basis for such allocation of the shared/joint costs; 3) a) any additional amounts sought to be included in the pricing of the switch; b) the source of these additional amounts; c) the claimed basis for the inclusion of these amounts in the pricing of the local switch platform ("LSP"). Any claim in the tariff for a term or minimum capacity requirement should be submitted with underlying cost detail the necessity for such requirement and the basis for how

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the actual length or amount was calculated. LDDS submits that the Commission should defer any decision on pricing until the investigation of these tariffs and the provision of this information, so that an informed analysis and judgment may be made.

Staff

Staff also identified the local exchange network as consisting of three components: loop, LSP, and inter-office transport. The loop portion of the network is the transmission path from the network interface at an end user's premises to a distribution frame, digital signal cross connect panel, or a similar demarcation point at the end office. The unbundled LSP is all services and functionalities that are provided by a switch or end office. These services include: telephone number and directory listing; dialtone; announcements; access to operators, usage, and interexchange carriers; originating and terminating switching; custom calling features (call forwarding, call waiting, etc.); and CLASS features (call ID, call return, etc.). The third basic piece of the local exchange network is interoffice transport.

Staff recommended modification of the original LDDS request to make the three network components available on an unbundled basis, which may be combined for end-to-end transmission. The Commission already has provided for the unbundled loop and interoffice transport separately. These should continue to be uniformly available according to the orders of the Commission. Requiring the middle network element, the LSP, to be available unbundled, subject to being combined with either or both of the other two elements, would afford the greatest opportunity to develop competition in local exchange markets. A purchasing carrier would receive all the features, functions, and capabilities available from the LSP, using them to sell services to end users and other carriers to the extent it is able. The LSP purchaser would receive all revenues for local exchange, exchange access, and other telecommunications services utilizing the LSP network element. The incumbent LEC, having received the price for the LSP network element, would not be entitled to any revenues it generated.

Staff believes that the federal Act requires the granting of the LDDS petition. Section 251(c)(3) requires incumbent LECs, including Ameritech and Centel, to provide requesting carriers unbundled network elements that they may be able to combine in order to provide telecommunications service. The LSP outlined by the Staff meets the federal Act's definition of a network element. Additionally, section 271(c)(2)(B) lists a competitive checklist that Bell Operating Companies, including Ameritech, must meet to be

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granted interLATA authority. Three of the items which are required include the provision of unbundled local loops, unbundled local transport, and unbundled local switching. These federal statutory requirements are entirely consistent with LDDS' petition as refined by Staff. The unbundled port currently provided by Ameritech does not include any of the features, functions, or capabilities of the switch and would not satisfy the requirement to provide an unbundled switch network element.

Staff identified three public policy goals: 1) promote economic efficiency; 2) not bias facilities-based competition or resale competition; and 3) allow for continuation of investment by the underlying facilities-based LEC. Staff's modification of the LDDS proposal would satisfy all three goals. The federal Act establishes a pricing standard for the network elements requiring that they be based on the cost of the network element, determined without reference to a rate-of-return or other rate-based proceeding, be nondiscriminatory, and may include a reasonable profit. Under this standard, LRSIC would constitute the cost basis. Staff believes that a reasonable profit could permit the inclusion of pro rata contribution. However, Staff agrees with LDDS that the pricing decision needs further investigation through the cost studies and other data to be supplied by Ameritech and Centel. Staff recommends that Ameritech and Centel be ordered to provide the requested tariffs, and that the pricing determination be deferred to an investigation and/or suspension of these tariffs.

MCI

Like Staff and LDDS, MCI identified the switching network element as the facility or equipment between the demarcation point for the unbundled loop and the demarcation point for the end-office integration trunks, with all the features, functions, and capabilities it provides. MCI agrees with LDDS that the network platform proposal requested by its petition is required by the federal Act. Specifically, MCI contends that Section 251(c)(3) requires each incumbent LEC to offer any requesting carrier unbundled access to its network elements, and further requires that these network elements be provided in such a manner that a requesting carrier may combine the network elements to provide a service. MCI further points to Sections 3(a)(45) and 271(c)(2)(B) which make clear that local switching--the key element in LDDS', MCI's and Staff's proposals--is a network element that must be unbundled. MCI points out that the other two components required by LDDS' proposal--loops and interoffice transport--already are available on an unbundled basis as a result of the Commission's Ameritech Customer's First Order and interconnection rules. MCI

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therefore urges the Commission to require Ameritech and Centel to file tariffs for the unbundled switch.

MCI further recommends that: 1) consistent with Sections 251(d)(1)(A) and (B), the unbundled switch product must be priced at LRSIC with no contribution; 2) telecommunications carriers that purchase the unbundled switch product should receive all revenues associated with any services sold using the network platform, including switched access revenues assessed at the end office; and 3) the mutual compensation arrangements adopted in the Ameritech CFP Order or subsequently found to meet the requirements of the federal Act should govern the exchange of local traffic.

MCI disagrees with the positions of Ameritech and other parties that argue that the LDDS petition is the same as the resale of LEC-defined services. MCI argues that the federal Act establishes at least two separate ways for new entrants to develop services to end users. One, provided for in Section 251(c)(3), is based on the LEC's existing retail offerings, and requires new entrants to acquire them at wholesale rates, perform retail functions, and offer the same services to end users. The other, provided for in Section 251(c)(3), is for new entrants to acquire some or all of the underlying network elements or functionalities from the incumbent LEC, and combine those network elements, perhaps with their own or another provider's network elements, and provide their services rather than simply mirroring those of the incumbent LEC. Finally, MCI points to the language of Section 251(c)(3) of the which expressly requires the ability to combine network elements.

MCI also disagrees with the arguments of Ameritech and other parties that permitting the combining of network elements would circumvent the federal Act's joint marketing restrictions. MCI contends that this argument is a red herring. Section 271(e)(1) restricts only joint marketing using the incumbent LEC's retail services, and does not restrict joint marketing through the creation of a carrier's own services by means of the purchase of unbundled network elements.

AT&T

AT&T submits that to provide new entrants the opportunity to develop local exchange competition requires the provision of both services requested by AT&T and LDDS. AT&T supports Staff's modification of the LDDS request, provided that the Commission preclude Ameritech and Centel from creating reintegration functions and imposing costs for such reintegration. AT&T concurs that the federal Act requires the granting of the LDDS petition and further

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establishes that the cost-based pricing standard requires pricing to be based on LRSIC. These pricing issues, though, may be deferred to the investigation of the ordered tariffs, as suggested by LDDS.

Centel

Centel agrees that the LDDS petition should be granted and will file a tariff according to the LDDS request as modified by Staff. Granting this request is required by the federal Act. The network elements will be provided on an unbundled basis and there will be no restrictions on how these network elements can be used. Any revenues received for services provided through the network elements, including access payments, should go to the carrier that is paying for the network elements. The operational interfaces requested by AT&T and LDDS are also network elements under the federal Act and will be provided. Centel recommends that the price of the network elements be based on LRSIC, including costs of capital, plus a reasonable contribution to joint and common costs. Network elements may be priced by access area with minimum term and capacity requirements for the purchase of switch capacity. Centel asks that custom calling and CLASS features be excluded from the switch network element. Since LRSIC studies have not yet been performed, Centel requests up to 90 days after the Commission's Order in which to file its compliance tariffs.

Ameritech

Ameritech argues that the LDDS petition should be denied, but that, within 30 days of the completion of this proceeding, it voluntarily will file a tariff for the requested services as modified by Staff in this proceeding. According to Ameritech, the LDDS petition requested that the network components be bundled to provide end-to-end telecommunications services. This does not comply with the federal Act's requirement to provide unbundled network elements. Furthermore, Ameritech opposes permitting a requesting carrier to bundle the unbundled network elements provided pursuant to the federal Act. Bundling the network elements would duplicate the wholesale services offered under Section 251(c)(4), obliterate the distinct pricing standards for the two, and enable circumventing the joint marketing restriction placed on the resale of retail services provided at wholesale under Section 251(c)(4). The Company asks the Commission to find a requirement in the federal Act that network elements purchased from incumbent LECs may only be combined with network elements of the purchasing carrier. Regarding pricing, it disagrees that LRSIC is the only cost which can be recovered in the pricing of network elements under Section 252(d)(1). Pricing network elements must consider all of the LEC's

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costs, including shared costs, common costs, and the residual. This Commission should defer granting the LDDS petition until completion of the FCC rulemaking on this and other issues interpreting the federal Act.

Ameritech also opposes granting the petition on state grounds. Modifying the requested service from a bundled end-to-end configuration to providing the unbundled components requires the LDDS petition to be filed under Section 13-505.6 of the PUA, not Section 13-505.5 requesting new services. The Company also contends that the record lacks substantial evidence to identify exactly what would be offered, and how. There are a number of pricing issues which are left unresolved. Finally, Ameritech opposes the position that the purchaser of the network elements would be entitled to retain exchange access revenues for traffic through those elements. It claims that the purchasing carrier provides no services to the IXCs for which they deserve to be compensated. Furthermore, since interexchange access includes interstate traffic, there is a jurisdictional issue which must first be resolved before the FCC.

MFS and TC Systems

MFS and TC Systems both oppose granting the LDDS petition. MFS argues that the LSP is not an unbundled network element under Section 251(c)(3) but actually a bundling of numerous network elements found within the switch. Like Ameritech, MFS argues that the Commission should find that network elements may be bundled only with other network elements provided by the requesting carrier, not with other network elements of the incumbent LEC. Allowing the combination of incumbent LEC network elements would negate the resale provisions of the federal Act and the congressional preference for facilities-based competition.

MFS states that the LSP is not a service currently provided by the incumbent LECs. Yet, MFS agrees with Ameritech that the LDDS petition should have been brought under Section 13-505.6 of the PUA, instead of Section 13-505.5. MFS suggests that the Commission defer the LDDS request until Ameritech and Centel file their unbundled tariffs. Additionally, MFS submits that the Commission must reconcile any pricing of the LSP with its loop pricing determination in the Ameritech CFP order. In its reply brief, MFS recommended that all network elements be priced at LRSIC. TC Systems concurs that the LDDS petition should be filed under Section 13-505.6 and suggests that the petition be dismissed and all related issues held in abeyance until the FCC issues its regulations under Section 251 in a few months.

CUB and Telecommunications Resellers Association ("TRA")

CUB and TRA support the granting of the LDDS petition. CUB states that the Commission has taken the initial steps in its attempt to develop local exchange competition. However, these efforts are unlikely to make available any competitive alternatives to residential or small business users. Granting the LDDS petition, as modified by Staff, would enable more immediate and broader-based competitive alternatives to consumers beyond those located in high-density areas or large-volume users.

TRA submits that both services requested by AT&T and LDDS must be granted to comply with the federal Act and to enable potential new entrants to enter the local exchange markets in the manner in which each provider determines how best to serve its subscribers and selected markets. Each provider must analyze its markets, inherent capabilities, and competitive strengths and objectives in developing its own operational strategy. What will result are numerous distinct and diverse approaches for serving subscribers, as individual as each company and the markets it will serve.

Commission Conclusion

The Commission is of the opinion that the LDDS petition, as modified by Staff, should be granted. The platform approach described in the record is consistent with the federal Act. Section 251(c)(3) provides as follows:

(c) ADDITIONAL OBLIGATIONS OF INCUMBENT LOCAL EXCHANGE CARRIERS-In addition to the duties contained in subsection (b), each incumbent local exchange carrier has the following duties:

* * * *

(3) UNBUNDLED ACCESS- The duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. An incumbent local exchange carrier shall provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to

provide such telecommunications service.

(emphasis supplied).

A "network element" is defined under Section 3(a) of Act as a "facility or equipment used in the provision of a telecommunications service." It also includes the following:

features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, data bases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

Section 251(c)(3) clearly mandates the LDDS and Staff platform proposals. This section requires any and all network elements to be made available, in any combination, so that a new entrant can provide service, and that necessarily includes the provision of those elements on a "total network" or platform basis. Ameritech and MFS' argument that Section 251(c)(3) of the federal Act requires carriers to combine their own facilities with network elements purchased from incumbent LECs in order to provide telecommunications service is without merit. Acceptance of these arguments would render the language meaningless. An unbundled network element, by the very nature of unbundling, is subject to being combined with another carrier's network elements. There would be no purpose to the latter sentence of section 251(c)(3) mandating that incumbent LECs allow the combination of network elements if this were the interpretation. Furthermore, the section expressly requires that the unbundled network elements be made available to any telecommunications carrier. This is also directly contrary to the limitation offered by Ameritech and MFS that network elements are available only to those telecommunication carriers which provide other network elements.

The Commission is also of the opinion that the arguments of MFS, TC Systems and Ameritech that the LDDS petition is really a request for unbundled network elements should have been brought under section 13-505.6 of the PUA, instead of section 13-505.5 are of no consequence. Ameritech and the other parties knew what LDDS was requesting in the LDDS petition. The record is well developed and contains a substantial amount of testimony admitted both in support of, and in opposition to, the LDDS petition.

No party contests that the service being requesting is a noncompetitive service, not currently being provided by the

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responding LECs. The LSP is the remaining element, between the unbundled loop and local call termination network elements which we have previously ordered. It is already part of the network architecture and, therefore, technically feasible. Therefore, we find that the record establishes that LDDS has satisfied the requirements of section 13-505.5, regardless of whether granting LDDS' petition, as modified by Staff, may also be granted pursuant to section 13-505.6. For the reasons previously stated, we find it to be in the public interest that the LDDS petition be granted.

The Commission finds that requiring Ameritech and Centel to make these unbundled network elements available will further our goal of promoting competition in the local exchange marketplace. Potential entrants to the local exchange marketplace would be provided the flexibility to design their own operational and marketing strategy to compete with the incumbent LEC and other carriers for end users of local exchange and other telecommunications services. Purchasers of the network element would compensate the incumbent LEC for the lease of the network facility or equipment, enabling the requesting carriers to utilize those network elements in designing their own services and marketing strategies as they deemed best to recover their costs and to compete in the marketplace. Having paid the incumbent LEC for the use of the network elements, the purchasing carrier is entitled to all revenues generated by local exchange, exchange access, and other telecommunications services it provides utilizing the purchased network elements, in the same fashion as the incumbent LECs. This will enable carriers to make decisions based on economic efficiency as to which network elements it should build, and which it should purchase from incumbent LECs or from competing other providers, free of any predetermined regulatory requirement. This will best foster the Commission's policies of allowing the competitive marketplace and economic considerations to substitute for regulatory oversight.

The Commission rejects Ameritech's argument that allowing a purchasing carrier to combine network elements to provide end-to-end telecommunications service is redundant of the additional requirement on incumbent LECs to make their retail services available at wholesale pricing for resale by requesting carriers. The federal Act clearly requires both offerings to be made available. These offerings were not required alternatively, but to be offered simultaneously. The intent of the federal Act is to make the competitive tools available which the carriers feel they need to employ their own marketing strategy and business judgment as to how to develop competition in the telecommunications marketplaces. The federal Act leaves it to the marketplace to resolve which is the best means available to develop competition.